

**State of Connecticut**  
**HOUSE OF REPRESENTATIVES**  
STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

**REPRESENTATIVE MARY M. MUSHINSKY**  
EIGHTY-FIFTH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING  
ROOM 4038  
HARTFORD, CT 06106-1591  
HOME: (203) 269-8378  
CAPITOL: (860) 240-8500  
TOLL FREE: 1-800-842-8267  
E-mail: [Mary.Mushinsky@cga.ct.gov](mailto:Mary.Mushinsky@cga.ct.gov)

**CO-CHAIR**  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

**MEMBER**  
ENVIRONMENT COMMITTEE  
FINANCE REVENUE AND BONDING COMMITTEE

**Testimony of Rep. Mary Mushinsky (85<sup>th</sup>) in Support of HB 5565, An Act  
Concerning Reverse Mortgage Transactions**

**Before the Banks Committee**  
**Thursday, February 14, 2013**

**2:00 p.m. in Room 2D**

The legislature usually takes action only after an incident points out a flaw in the statutes. This bill, instead, seeks to prevent elder abuse in Connecticut in the reverse mortgage market before disreputable practices seen in other states arrive here. While reverse mortgages can be a useful tool for seniors to pay for necessary home repairs, medical bills or other unexpected crisis, there have also been abuses recorded in other states.

The worst of these is a deliberate practice by some lenders to place only the older of two spouses on a reverse mortgage deed. Upon the death of the older spouse, the surviving, younger spouse is evicted and the house sold by the lender. According to news reports, these surviving spouses were completely caught off guard by this shocking development and were left homeless in their remaining years—not at all what they envisioned when the salesperson approached the couple with an offer of assistance. Some lenders even offered their salespeople bonuses for single spouse sign-ups.

According to OLR report 2013-R-0076, which is attached, Connecticut's statutes currently do not prohibit the practice of leaving off the younger spouse by agreement or by choice, so I ask the Banks Committee to draft and approve this bill which would protect the second, younger spouse from eviction from their own home. Thank you for hearing this bill.



# OLR RESEARCH REPORT

February 1, 2013

2013-R-0076

## CONSUMER PROTECTION ISSUES UNDER REVERSE ANNUITY MORTGAGE LOANS

By: Michelle Kirby, Associate Analyst

You asked whether Connecticut law prohibits banks from requiring the older spouse to be the sole borrower on a Reverse Annuity Mortgage loan.

### REVERSE ANNUITY MORTGAGE LOAN TERMS

Connecticut law does not explicitly prohibit banks from requiring the older spouse to be the sole borrower on a Reverse Annuity Mortgage Loan. While the death of the last surviving borrower is an event that could trigger termination of a reverse annuity mortgage loan, this is a provision that must be agreed to by the borrower and the bank, at the option of the bank.

The law states that, at the bank's option, if the bank and the homeowner agree that advances under a reverse annuity mortgage loan may terminate and the entire unpaid balance of the loan plus accrued interest may become due and payable when one of the following occurs:

1. The death of the last surviving borrower;
2. The sale or other transfer of the real estate securing the loan to a person other than any of the original borrowers; or
3. Any other occurrence which materially decreases the value of the property securing the loan or which will have the likely effect of causing the loan not to be repaid. Any such additional occurrence must be clearly recited in the mortgage deed.

See CGS § 36a-265(e) (2).

### CONSUMER PROTECTION ISSUES    RISK TO NON-BORROWERS

When both spouses or partners are included as borrowers on a reverse mortgage loan the one spouse can continue to live in the home if the other spouse dies as long as no other circumstances prompt repayment. Sometimes, however, the reverse mortgage is taken out in the name of only one spouse.

This may happen because (1) the other spouse was younger than the required minimum age when the reverse mortgage was originated and therefore could not qualify as a borrower; (2) the couple married after the reverse mortgage was originated; or (3) the younger spouse is left off the reverse mortgage contract by agreement or by choice. In these cases the non-borrower spouse or partner is at risk of needing to sell the home to pay off the reverse mortgage when the borrowing spouse dies or needs to move.

#### **BACKGROUND INFORMATION**

Attached for your information is OLR Report 2012-R-0277 which provides general information on reverse annuity mortgages.

MK:ro

## Elderly Reverse Mortgage Borrowers Facing Eviction

- Published: January 13th, 2011
- Author: twist



I have come out against reverse mortgages on several occasions. I don't like the way they are marketed and have felt they were potentially dangerous to borrowers. According to a recent U.S. News and World Report article, my fears are justified. [Thanks L!]

*The government is moving to head off a growing problem with its reverse mortgage program. Large numbers of elderly borrowers—perhaps thousands—face possible evictions from their homes because they've stopped making property tax and home insurance payments. While homeowners with reverse mortgages are freed from mortgage payments after taking out the loans, they remain liable for property tax, home insurance, and maintenance expenses. Failure to make these payments can trigger foreclosure and possible eviction.*

In spite of what the ads may say, there is only one way to “tap the equity in your home”. That is to sell it. Any type of mortgage like a reverse mortgage or home equity line is a secured LOAN. All loans carry the risk that the borrower's financial circumstances might some day make it difficult to pay the loan back. Borrowers need to educate themselves about the risk of any loan program before participating.

# Consumer Group Promotes Reverse Mortgage Reforms

*Action urged as lenders mount PR campaign and CFPB holds hearing*

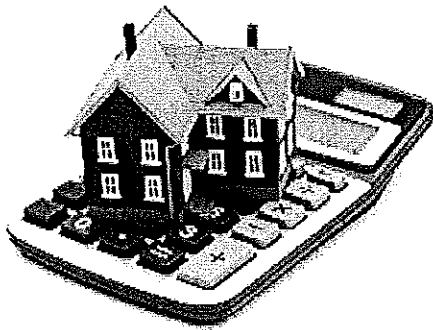
06/26/2012 | ConsumerAffairs



**By James Limbach**

A Washington, D.C., reporter for more than 30 years ... [Read Full Bio→](#)

[Email James Limbach](#) Phone: 866-773-0221



Consumers Union is calling on the Consumer Finance Protection Bureau (CFPB) today to protect vulnerable seniors from reverse mortgage abuses.

The policy and advocacy division of Consumer Reports is renewing its call for stricter oversight of reverse mortgages just as the industry launches a public relations campaign to repair its image and the CFPB prepares to hold a field hearing on the topic on tomorrow (June 27) in Tampa.

"Reverse mortgages should only be used as a last resort because they can carry huge costs that can quickly drain a homeowners equity," said Norma Garcia, senior attorney and manager of Consumers Union's financial services program. "The reverse mortgage industry insists that it can police itself but it's clear we need common sense oversight by the CFPB to protect seniors."

Reverse mortgages enable borrowers who are 62 or older to obtain income through cash payment or lines of credit by tapping the equity in their home. The reverse mortgage loan becomes due when the borrower dies, leaves the home for 12 consecutive months or more or fails to maintain the property or pay homeowners insurance or property taxes. Borrowers must pay a loan origination fee, closing costs, and compounding interests on the loan principal, which can be significant.

Consumers Union's December 2010 report on reverse mortgages documented a number of concerns that underscore the need for stronger oversight by the CFPB. The report was co-written by California Advocates for Nursing Home reform and the Council On Aging Silicon Valley.

## Growing concerns

The report highlighted how borrowers can be duped by misleading marketing claims and that required counseling provided by the Department of Housing and Urban Development (HUD) was inadequate. It also noted that seniors are sometimes targeted with aggressive cross promotion of other financial products like long term care insurance or annuities that may not be suitable for them.

Finally, the report cited recent HUD statistics finding that an increasing number of borrowers had defaulted because they were unable to pay their property taxes or homeowner insurance premiums as required.

## Recommended steps

Consumers Union called on the CFPB to take a number of steps to protect seniors, including:

- Ensure loans are suitable for borrowers: Lenders and brokers should be required to consider whether the loans put borrowers at risk of losing their homes, if the borrower understands the complex nature of the contract, and if there are more viable alternatives available to the borrower.
- Establish a fiduciary responsibility for the loan: Lenders and brokers must be required to act in the best interests of the borrower and should be held liable for violating this fiduciary duty.
- Outlaw deceptive marketing: All reverse mortgages should be required to include information to help borrowers determine whether the loans are suitable for them.
- Adopt stronger prohibitions on cross promotions: Prohibitions against cross promotions of other financial products by lenders and brokers should extend to non-HECM loans. Insurance agents and brokers should be held liable for selling an annuity when it is purchased with reverse mortgage funds.
- Strengthen the quality and content of counseling: HUD counselors should be required to hold an in-person session with prospective borrowers to determine whether a

reverse mortgage is suitable for the borrower. The counselor should deny a counseling certificate to the borrower if the loan is not in the best interest of the senior.

- **Protect non-borrowing spouses and tenants:** Spouses and tenants whose names are not on the reverse mortgage loan should be notified about their limited rights to remain in the home after the borrower dies or permanently moves out of the home.

